

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PCT 2941	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/DE96/01269	International filing date ( <i>day/month/year</i> ) 12 July 1996 (12.07.1996)	Priority date ( <i>day/month/year</i> ) 12 July 1995 (12.07.1995)
International Patent Classification (IPC) or national classification and IPC G01N 33/50		
Applicant LAUK, Christiane		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 05 February 1997 (05.02.1997)	Date of completion of this report 22 April 1997 (22.04.1997)
Name and mailing address of the IPEA/EP European Patent Office, P.B.5818 Patentlaan 2 NL-2280 HV Rijswijk, Netherlands Facsimile No. (31-70) 340 3016	Authorized officer  Telephone No. (31-70) 340 2040

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/DE96/01269

## I. Basis of the report

1. This report has been drawn on the basis of (Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.):

- ☒ the international application as originally filed.
- ☐ the description, pages \_\_\_\_\_, as originally filed,  
 pages \_\_\_\_\_, filed with the demand,  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☐ the claims, Nos. \_\_\_\_\_, as originally filed,  
 Nos. \_\_\_\_\_, as amended under Article 19,  
 Nos. \_\_\_\_\_, filed with the demand,  
 Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
 Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☐ the drawings, sheets/fig \_\_\_\_\_, as originally filed,  
 sheets/fig \_\_\_\_\_, filed with the demand,  
 sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
 sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/DE 96/01269

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	1 - 8	YES
	Claims		NO
Inventive step (IS)	Claims	1 - 8	YES
	Claims		NO
Industrial applicability (IA)	Claims	1 - 8	YES
	Claims		NO

## 2. Citations and explanations

1. None of the relevant international preliminary search report citations describes a process as per the preamble of claim 1, in which the reaction of individual immune cells of a single person to xenogenic medicaments is investigated and the individual tolerance is thus determined.

Although the closest document, **Naturwissenschaften 76, 1989, pp. 530 ff.**, investigates the effect of mistletoe extracts on the activity of immune cells with respect to cancer cells, the test subjects are categorized only in 3 potency groups; there is no individual typing; cf., page 531, left-hand column: **"Without considering individual reactions of the blood donors, ..."**.

2. Therefore the subject matter of claim 1 and of dependent claims 2 to 8 is novel and involves an inventive step, and so the requirements of PCT Article 33(2) and (3) are satisfied.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/DE. 96/01269

## VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. The sense of the expression "... **in the form of industrial applicability**" in claim 1 (line 1 of the characterizing part) is unclear and renders the claim difficult to comprehend. Since this expression is not essential for defining the scope of protection of the claims, it should be deleted.

# PATENT COOPERATION TREATY

**PCT**

## NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

United States Patent and Trademark  
Office  
(Box PCT)  
Crystal Plaza 2  
Washington, DC 20231  
ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

Date of mailing (day/month/year)

19 February 1997 (19.02.97)

International application No.

PCT/DE96/01269

Applicant's or agent's file reference

PCT 2941

International filing date (day/month/year)

12 July 1996 (12.07.96)

Priority date (day/month/year)

12 July 1995 (12.07.95)

Applicant

LAUK, Christiane

1. The designated Office is hereby notified of its election made:



in the demand filed with the International Preliminary Examining Authority on:

05 February 1997 (05.02.97)



in a notice effecting later election filed with the International Bureau on:

2. The election



was



was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Facsimile No.: (41-22) 740.14.35

Authorized officer

Céline Faust

Telephone No.: (41-22) 730.91.11

PATENT COOPERATION TREATY

PCT

NOTIFICATION CONCERNING  
DOCUMENT TRANSMITTED

From the INTERNATIONAL BUREAU

To:

United States Patent and Trademark  
Office  
(Box PCT)  
Crystal Plaza 2  
Washington, DC 20231  
ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

Date of mailing (day/month/year)

09 March 1998 (09.03.98)

International application No.

PCT/DE96/01269

International filing date (day/month/year)

12 July 1996 (12.07.96)

Applicant

LAUK, Christiane

The International Bureau transmits herewith the following documents and number thereof:

\_\_\_\_\_ copy of the English translation of the international preliminary examination report (Article 36(3)(a))

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Facsimile No.: (41-22) 740.14.35

Authorized officer

N. Masson

Telephone No.: (41-22) 338.83.38

# PCT

## REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No.

International Filing Date

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference  
(if desired) (12 characters maximum)

### Box No. I TITLE OF INVENTION

Method for determining the effectiveness and tolerance of a xenogenic substance administered to an organism.

### Box No. II APPLICANT

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

LAUK, Christiane  
Unterer Bühlweg 1  
DE-71159 Mötzingen  
Germany

☒ This person is also inventor.

Telephone No.

Facsimile No.

Teleprinter No.

State (i.e. country) of nationality:

DE

State (i.e. country) of residence:

DE

This person is applicant for the purposes of:



all designated States



all designated States except the United States of America



the United States of America only



the States indicated in the Supplemental Box

### Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

This person is:

☐ applicant only

☐ applicant and inventor

☐ inventor only (If this check-box is marked, do not fill in below.)

State (i.e. country) of nationality:

State (i.e. country) of residence:

This person is applicant for the purposes of:



all designated States



all designated States except the United States of America



the United States of America only



the States indicated in the Supplemental Box

☐ Further applicants and/or (further) inventors are indicated on a continuation sheet.

### Box No. IV AGENT OR COMMON REPRESENTATIVE: OR ADDRESS FOR CORRESPONDENCE

The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as:



agent



common representative

Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

SCHUSTER, Gregor  
Wiederholdstraße 10  
DE-70174 Stuttgart  
Germany

Telephone No.

0711/29 95 91

Facsimile No.

0711/29 95 94

Teleprinter No.

☐ Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.

Box No. V<sub>2</sub>

## DESIGNATION OF STATES

The following designations are hereby made under Rule 4.9(a) (mark the applicable check-boxes; at least one must be marked):

## Regional Patent

- ☐ AP **ARIPO Patent:** KE Kenya, LS Lesotho, MW Malawi, SD Sudan, SZ Swaziland, UG Uganda, and any other State which is a Contracting State of the Harare Protocol and of the PCT
- ☐ EA **Eurasian Patent:** AM Armenia, AZ Azerbaijan, BY Belarus, KG Kyrgyzstan, KZ Kazakstan, MD Republic of Moldova, RU Russian Federation, TJ Tajikistan, TM Turkmenistan, and any other State which is a Contracting State of the Eurasian Patent Convention and of the PCT
- ☒ EP **European Patent:** AT Austria, BE Belgium, CH and LI Switzerland and Liechtenstein, DE Germany, DK Denmark, ES Spain, FI Finland, FR France, GB United Kingdom, GR Greece, IE Ireland, IT Italy, LU Luxembourg, MC Monaco, NL Netherlands, PT Portugal, SE Sweden, and any other State which is a Contracting State of the European Patent Convention and of the PCT
- ☐ OA **OAPI Patent:** BF Burkina Faso, BJ Benin, CF Central African Republic, CG Congo, CI Côte d'Ivoire, CM Cameroon, GA Gabon, GN Guinea, ML Mali, MR Mauritania, NE Niger, SN Senegal, TD Chad, TG Togo, and any other State which is a member State of OAPI and a Contracting State of the PCT (if other kind of protection or treatment desired, specify on dotted line)

## National Patent (if other kind of protection or treatment desired, specify on dotted line):

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> AL Albania                               | <input checked="" type="checkbox"/> LU Luxembourg                                |
| <input checked="" type="checkbox"/> AM Armenia                               | <input checked="" type="checkbox"/> LV Latvia                                    |
| <input checked="" type="checkbox"/> AT Austria                               | <input checked="" type="checkbox"/> MD Republic of Moldova                       |
| <input checked="" type="checkbox"/> AU Australia                             | <input checked="" type="checkbox"/> MG Madagascar                                |
| <input checked="" type="checkbox"/> AZ Azerbaijan                            | <input checked="" type="checkbox"/> MK The former Yugoslav Republic of Macedonia |
| <input checked="" type="checkbox"/> BA Bosnia and Herzegovina                |  |
| <input checked="" type="checkbox"/> BB Barbados                              | <input checked="" type="checkbox"/> MN Mongolia                                  |
| <input checked="" type="checkbox"/> BG Bulgaria                              | <input checked="" type="checkbox"/> MW Malawi                                    |
| <input checked="" type="checkbox"/> BR Brazil                                | <input checked="" type="checkbox"/> MX Mexico                                    |
| <input checked="" type="checkbox"/> BY Belarus                               | <input checked="" type="checkbox"/> NO Norway                                    |
| <input checked="" type="checkbox"/> CA Canada                                | <input checked="" type="checkbox"/> NZ New Zealand                               |
| <input checked="" type="checkbox"/> CH and LI Switzerland and Liechtenstein  | <input checked="" type="checkbox"/> PL Poland                                    |
| <input checked="" type="checkbox"/> CN China                                 | <input checked="" type="checkbox"/> PT Portugal                                  |
| <input checked="" type="checkbox"/> CU Cuba                                  | <input checked="" type="checkbox"/> RO Romania                                   |
| <input checked="" type="checkbox"/> CZ Czech Republic                        | <input checked="" type="checkbox"/> RU Russian Federation                        |
| <input checked="" type="checkbox"/> DE Germany                               | <input checked="" type="checkbox"/> SD Sudan                                     |
| <input checked="" type="checkbox"/> DK Denmark                               | <input checked="" type="checkbox"/> SE Sweden                                    |
| <input checked="" type="checkbox"/> EE Estonia                               | <input checked="" type="checkbox"/> SG Singapore                                 |
| <input checked="" type="checkbox"/> ES Spain                                 | <input checked="" type="checkbox"/> SI Slovenia                                  |
| <input checked="" type="checkbox"/> FI Finland                               | <input checked="" type="checkbox"/> SK Slovakia                                  |
| <input checked="" type="checkbox"/> GB United Kingdom                        | <input checked="" type="checkbox"/> TJ Tajikistan                                |
| <input checked="" type="checkbox"/> GE Georgia                               | <input checked="" type="checkbox"/> TM Turkmenistan                              |
| <input checked="" type="checkbox"/> HU Hungary                               | <input checked="" type="checkbox"/> TR Turkey                                    |
| <input checked="" type="checkbox"/> IL Israel                                | <input checked="" type="checkbox"/> TT Trinidad and Tobago                       |
| <input checked="" type="checkbox"/> IS Iceland                               | <input checked="" type="checkbox"/> UA Ukraine                                   |
| <input checked="" type="checkbox"/> JP Japan                                 | <input checked="" type="checkbox"/> UG Uganda                                    |
| <input checked="" type="checkbox"/> KE Kenya                                 | <input checked="" type="checkbox"/> US United States of America                  |
| <input checked="" type="checkbox"/> KG Kyrgyzstan                            |  |
| <input checked="" type="checkbox"/> KP Democratic People's Republic of Korea | <input checked="" type="checkbox"/> UZ Uzbekistan                                |
|  | <input checked="" type="checkbox"/> VN Viet Nam                                  |
| <input checked="" type="checkbox"/> KR Republic of Korea                     |  |
| <input checked="" type="checkbox"/> KZ Kazakstan                             |  |
| <input checked="" type="checkbox"/> LC Saint Lucia                           |  |
| <input checked="" type="checkbox"/> LK Sri Lanka                             |  |
| <input checked="" type="checkbox"/> LR Liberia                               |  |
| <input checked="" type="checkbox"/> LS Lesotho                               |  |
| <input checked="" type="checkbox"/> LT Lithuania                             |  |

Check-boxes reserved for designating States (for the purposes of a national patent) which have become party to the PCT after issuance of this sheet:

- ☐ .....
- ☐ .....
- ☐ .....
- ☐ .....

In addition to the designations made above, the applicant also makes under Rule 4.9(b) all designations which would be permitted under the PCT except the designation(s) of .....  
 The applicant declares that those additional designations are subject to confirmation and that any designation which is not confirmed before the expiration of 15 months from the priority date is to be regarded as withdrawn by the applicant at the expiration of that time limit. (Confirmation of a designation consists of the filing of a notice specifying that designation and the payment of the designation and confirmation fees. Confirmation must reach the receiving Office within the 15-month time limit.)



**Box No. VI PRIORITY CLAIM**Further priority claims are indicated in the Supplemental Box ☐

The priority of the following earlier application(s) is hereby claimed:

Country (in which, or for which, the application was filed)	Filing Date (day/month/year)	Application No.	Office of filing (only for regional or international application)
item (1) Germany	July 12, 1995 12.07.1995	195 25 133.4	German Patent Office/Munich
item (2)			
item (3)			

Mark the following check-box if the certified copy of the earlier application is to be issued by the Office which for the purposes of the present international application is the receiving Office (a fee may be required):

☒ The receiving Office is hereby requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) identified above as item(s):

**Box No. VII INTERNATIONAL SEARCHING AUTHORITY**

**Choice of International Searching Authority (ISA)** (If two or more International Searching Authorities are competent to carry out the international search, indicate the Authority chosen: the two-letter code may be used): ISA /

**Earlier search** Fill in where a search (international, international-type or other) by the International Searching Authority has already been carried out or requested and the Authority is now requested to base the international search, to the extent possible, on the results of that earlier search. Identify such search or request either by reference to the relevant application (or the translation thereof) or by reference to the search request.  
Country (or regional Office): Date (day/month/year): Number:

**Box No. VIII CHECK LIST**

This international application contains the following number of sheets:

1. request : 3 sheets  
2. description : 6 sheets  
3. claims : 3 sheets  
4. abstract : 1 sheets  
5. drawings : sheets  
Total : 13 sheets

This international application is accompanied by the item(s) marked below:

1. ☐ separate signed power of attorney  
2. ☐ copy of general power of attorney  
3. ☐ statement explaining lack of signature  
4. ☐ priority document(s) identified in Box No. VI as item(s):  
5. ☐ fee calculation sheet  
6. ☐ separate indications concerning deposited microorganisms  
7. ☐ nucleotide and/or amino acid sequence listing (diskette)  
8. ☐ other (specify):

Figure No. of the drawings (if any) should accompany the abstract when it is published.

**Box No. IX SIGNATURE OF APPLICANT OR AGENT**

Next to each signature, indicate the name of the person signing and the capacity in which the person signs (if such capacity is not obvious from reading the request).

Power of Attorney will follow

In advance by fax on  
July 12, 1996

12.07.1996  
(PA Schuster)

For receiving Office use only

1. Date of actual receipt of the purported international application:	2. Drawings: <input type="checkbox"/> received: <input type="checkbox"/> not received:
3. Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application:	
4. Date of timely receipt of the required corrections under PCT Article 11(2):	
5. International Searching Authority specified by the applicant: ISA /	6. <input type="checkbox"/> Transmittal of search copy delayed until search fee is paid

For International Bureau use only

Date of receipt of the record copy  
by the International Bureau:

See Notes to the request form

# PATENT COOPERATION TREATY

WO 97/03356  
PCT/DE96/01269

**PCT**

**NOTICE INFORMING THE APPLICANT OF THE  
COMMUNICATION OF THE INTERNATIONAL  
APPLICATION TO THE DESIGNATED OFFICES**

(PCT Rule 47.1(c), first sentence)

From the INTERNATIONAL BUREAU

To:

SCHUSTER, Gregor  
Wiederholdstrasse 10  
D-70174 Stuttgart  
ALLEMAGNE

**EINGEGANGEN**

- 7. FEB. 1997

Erledigt: .....

<b>Date of mailing (day/month/year)</b> 30 January 1997 (30.01.97)		
<b>Applicant's or agent's file reference</b> PCT 2941		<b>IMPORTANT NOTICE</b>
<b>International application No.</b> PCT/DE96/01269	<b>International filing date (day/month/year)</b> 12 July 1996 (12.07.96)	<b>Priority date (day/month/year)</b> 12 July 1995 (12.07.95)
<b>Applicant</b> LAUK, Christiane		

1. Notice is hereby given that the International Bureau has communicated, as provided in Article 20, the international application to the following designated Offices on the date indicated above as the date of mailing of this Notice:

✓ EP, FI, NO, PL, SK, US  
 ✓ ✓ ✓ ✓ ✓

In accordance with Rule 47.1(c), third sentence, those Offices will accept the present Notice as conclusive evidence that the communication of the international application has duly taken place on the date of mailing indicated above and no copy of the international application is required to be furnished by the applicant to the designated Office(s).

2. The following designated Offices have waived the requirement for such a communication at this time:

HU ✓

The communication will be made to those Offices only upon their request. Furthermore, those Offices do not require the applicant to furnish a copy of the international application (Rule 49.1(a-bis)).

3. Enclosed with this Notice is a copy of the international application as published by the International Bureau on 30 January 1997 (30.01.97) under No. WO 97/03356

**REMINDER REGARDING CHAPTER II (Article 31(2)(a) and Rule 54.2)**

If the applicant wishes to postpone entry into the national phase until 30 months (or later in some Offices) from the priority date, a demand for international preliminary examination must be filed with the competent International Preliminary Examining Authority before the expiration of 19 months from the priority date.

It is the applicant's sole responsibility to monitor the 19-month time limit.

Note that only an applicant who is a national or resident of a PCT Contracting State which is bound by Chapter II has the right to file a demand for international preliminary examination.

**REMINDER REGARDING ENTRY INTO THE NATIONAL PHASE (Article 22 or 39(1))**

If the applicant wishes to proceed with the international application in the national phase, he must, within 20 months or 30 months, or later in some Offices, perform the acts referred to therein before each designated or elected Office.

For further important information on the time limits and acts to be performed for entering the national phase, see the Annex to Form PCT/IB/301 (Notification of Receipt of Record Copy) and Volume II of the PCT Applicant's Guide.

<p style="text-align: center;">The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. (41-22) 740.14.35</p>	<p>Authorized officer</p> <p style="text-align: center;">J. Zahra</p> <p>Telephone No. (41-22) 730.91.11</p>
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**VERTRAG ÜBER DIE INTERNATIONALE ZUSAMMENARBEIT  
AUF DEM GEBIET DES PATENTWESENS**

**PCT**

**INTERNATIONALER VORLÄUFIGER PRÜFUNGSBERICHT**

(Artikel 36 und Regel 70 PCT)

<b>REC'D</b>	<b>24 APR 1997</b>
<b>WIPO</b>	<b>PCT</b>

Aktenzeichen des Anmelders oder Anwalts <b>PCT 2941</b>	<b>WEITERES VORGEHEN</b> siehe Mitteilung über die Übersendung des internationalen vorläufigen Prüfungsberichts (Formblatt PCT/IPEA/416)	
Internationales Aktenzeichen <b>PCT/DE 96/01269</b>	Internationales Anmeldedatum (Tag/Monat/Jahr) <b>12/07/1996</b>	Prioritätsdatum (Tag/Monat/Jahr) <b>12/07/1995</b>
Internationale Patentklassifikation (IPK) oder nationale Klassifikation und IPK <b>G01N33/50</b>		
Anmelder <b>LAUK, Christiane</b>		

<p>1. Der internationale vorläufige Prüfungsbericht wurde von der mit der internationalen vorläufigen Prüfung beauftragten Behörde erstellt und wird dem Anmelder gemäß Artikel 36 übermittelt.</p> <p>2. Dieser <b>BERICHT</b> umfaßt insgesamt <u>5</u> Blätter einschließlich dieses Deckblatts.</p> <p><input type="checkbox"/> Außerdem liegen dem Bericht <b>ANLAGEN</b> bei; dabei handelt es sich um Blätter mit Beschreibungen, Ansprüchen und/oder Zeichnungen, die geändert wurden und diesem Bericht zugrunde liegen, und/oder Blätter mit vor dieser Behörde vorgenommenen Berichtigungen (siehe Regel 70.16 und Abschnitt 607 der Verwaltungsrichtlinien zum PCT)</p> <p>Diese Anlagen umfassen insgesamt _____ Blätter.</p> <p>3. Dieser Bericht enthält Angaben und die entsprechenden Seiten zu folgenden Punkten:</p> <ul style="list-style-type: none"> <li>I <input checked="" type="checkbox"/> Grundlage des Berichts</li> <li>II <input type="checkbox"/> Priorität</li> <li>III <input type="checkbox"/> Keine Erstellung eines Gutachtens über Neuheit, erfinderische Tätigkeit und gewerbliche Anwendbarkeit</li> <li>IV <input type="checkbox"/> Mangelnde Einheitlichkeit der Erfindung</li> <li>V <input checked="" type="checkbox"/> Begründete Feststellung nach Artikel 35(2) hinsichtlich der Neuheit, der erfinderischen Tätigkeit und der gewerblichen Anwendbarkeit; Unterlagen und Erklärungen zur Stützung dieser Feststellung</li> <li>VI <input type="checkbox"/> Bestimmte angeführte Unterlagen</li> <li>VII <input type="checkbox"/> Bestimmte Mängel der internationalen Anmeldung</li> <li>VIII <input checked="" type="checkbox"/> Bestimmte Bemerkungen zur internationalen Anmeldung</li> </ul>
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Datum der Einreichung des Antrags <b>05/02/1997</b>	Datum der Fertigstellung dieses Berichts <b>22.04.97</b>
Name und Postanschrift der mit der internationalen vorläufigen Prüfung beauftragten Behörde Europäisches Patentamt D-80298 München Tel. (+49-89) 2399-0, Tx: 523656 epmu d Fax: (+49-89) 2399-4465	Bevollmächtigter Bediensteter  <b>M. Götz</b> Tel. <b>(+49-89) 2398-8687</b>

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I. Grundlage des Berichts

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1. Dieser Bericht wurde erstellt auf der Grundlage (Ersatzblätter, die dem Anmeldeamt auf eine Aufforderung nach Artikel 14 hin vorgelegt wurden, gelten im Rahmen dieses Berichts als "ursprünglich eingereicht" und sind ihm nicht beigelegt, weil sie keine Änderungen enthalten.)

☒ der internationalen Anmeldung in der ursprünglich eingereichten Fassung.

☐ der Beschreibung, Seite/n \_\_\_\_\_, in der ursprünglich eingereichten Fassung.  
Seite/n \_\_\_\_\_, eingereicht mit dem Antrag.  
Seite/n \_\_\_\_\_, eingereicht mit Schreiben vom \_\_\_\_\_.  
Seite/n \_\_\_\_\_, eingereicht mit Schreiben vom \_\_\_\_\_.

☐ der Ansprüche, Nr. \_\_\_\_\_, in der ursprünglich eingereichten Fassung.  
Nr. \_\_\_\_\_, in der nach Artikel 19 geänderten Fassung.  
Nr. \_\_\_\_\_, eingereicht mit dem Antrag.  
Nr. \_\_\_\_\_, eingereicht mit Schreiben vom \_\_\_\_\_.  
Nr. \_\_\_\_\_, eingereicht mit Schreiben vom \_\_\_\_\_.

☐ der Zeichnungen, Blatt/Abb. \_\_\_\_\_, in der ursprünglich eingereichten Fassung.  
Blatt/Abb. \_\_\_\_\_, eingereicht mit dem Antrag.  
Blatt/Abb. \_\_\_\_\_, eingereicht mit Schreiben vom \_\_\_\_\_.  
Blatt/Abb. \_\_\_\_\_, eingereicht mit Schreiben vom \_\_\_\_\_.

2. Aufgrund der Änderungen sind folgende Unterlagen fortgefallen:

☐ Beschreibung: Seite \_\_\_\_\_.  
☐ Ansprüche: Nr. \_\_\_\_\_.  
☐ Zeichnungen: Blatt/Abb. \_\_\_\_\_.

3. ☐ Dieser Bericht ist ohne Berücksichtigung (von einigen) der Änderungen erstellt worden, da diese aus den angegebenen Gründen nach Auffassung der Behörde über den Offenbarungsgehalt in der ursprünglich eingereichten Fassung hinausgehen (Regel 70.2 c)).

4. Etwaige zusätzliche Bemerkungen:
-

## INTERNATIONALER VORLÄUFIGER PRÜFUNGSBERICHT

V. Begründete Feststellung nach Artikel 35(2) hinsichtlich der Neuheit, der erfinderischen Tätigkeit und der gewerblichen Anwendbarkeit; Unterlagen und Erläuterungen zur Stützung dieser Feststellung

## 1. FESTSTELLUNG

Neuheit	Ansprüche 1 - 8 _____	JA
	Ansprüche _____	NEIN
Erfinderische Tätigkeit	Ansprüche 1 - 8 _____	JA
	Ansprüche _____	NEIN
Gewerbliche Anwendbarkeit	Ansprüche 1 - 8 _____	JA
	Ansprüche _____	NEIN

## 2. UNTERLAGEN UND ERLÄUTERUNGEN

1. Keines der verfügbaren Dokumente des internationalen vorläufigen Recherchenberichtes beschreibt ein Verfahren gemäß Oberbegriff des Anspruchs 1, bei dem die Reaktion einzelner Immunzellen nur einer Person auf xenogene Arzneimittel untersucht und somit die individuelle Verträglichkeit bestimmt wird.

Zwar wird in dem nächstliegenden Dokument, **Naturwissenschaften 76, 1989, Seiten 530ff**, die Wirkung von Mistel-extrakten auf die Aktivität von Immunzellen gegenüber Krebszellen untersucht, es wird jedoch lediglich eine Kategorisierung der Versuchspersonen in 3 Wirksamkeitsgruppen vorgenommen; eine individuelle Typisierung wird nicht vorgenommen, siehe Seite 531, linke Spalte:

"Without considering individual reactions of the blood donors, ...".

2. Der Gegenstand des Anspruchs 1 sowie der davon abhängigen Ansprüche 2 - 8 ist daher neu und beruht auf erfinderischer Tätigkeit. Die Voraussetzungen gemäß Art. 33(2) und (3) PCT sind somit erfüllt.

VIII. Bestimmte Bemerkungen zur internationalen Anmeldung

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Zur Klarheit der Patentansprüche, der Beschreibung und der Zeichnungen oder zu der Frage, ob die Ansprüche in vollem Umfang durch die Beschreibung gestützt werden, ist folgendes zu bemerken:

1. Der Sinn des Ausdrucks "... in Form von gewerblicher Anwendbarkeit ..." in Anspruch 1 (erste Zeile des kennzeichnenden Teiles) ist nicht klar ersichtlich und erschwert die Lesbarkeit des Anspruches. Da dieser Ausdruck für die Bestimmung des Schutzzumfanges nicht wesentlich scheint, sollte er gestrichen werden.